

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 428

To amend the Internal Revenue Code of 1986 to exclude from the gross estate the value of land subject to a qualified conservation easement if certain conditions are satisfied and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. WALKER introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to exclude from the gross estate the value of land subject to a qualified conservation easement if certain conditions are satisfied and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Open Space Preserva-  
5       tion Act of 1993”.

1 **SEC. 2. TREATMENT OF LAND SUBJECT TO A QUALIFIED**  
2 **CONSERVATION EASEMENT.**

3 (a) GROSS ESTATE TAX WITH RESPECT TO LAND  
4 SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—  
5 Section 2031 of the Internal Revenue Code of 1986 (relat-  
6 ing to the definition of gross estate) is amended by redes-  
7 ignating subsection (c) as subsection (d) and by inserting  
8 after subsection (b) the following new subsection:

9 “(c) ESTATE TAX WITH RESPECT TO LAND SUB-  
10 JECT TO A QUALIFIED CONSERVATION EASEMENT.—

11 “(1) IN GENERAL.—Except as otherwise pro-  
12 vided in this subsection, there shall be excluded from  
13 the gross estate the value of land subject to a quali-  
14 fied conservation easement (less the amount of any  
15 indebtedness secured by such land). There shall be  
16 included in the gross estate the value of each devel-  
17 opment right retained by the donor in the convey-  
18 ance of such qualified conservation easement. For  
19 purposes of this subsection, the term ‘land subject to  
20 a qualified conservation easement’ shall mean land,  
21 which was owned by the decedent or a member of  
22 the decedent’s family during the 3-year period end-  
23 ing on the date of the decedent’s death, and with re-  
24 spect to which a qualified conservation contribution  
25 of a qualified real property interest (as defined in  
26 section 170(h)) has been made by the decedent, the

1 decedent's spouse or the decedent's parent, a lineal  
2 ancestor of the decedent, or a lineal descendant of  
3 the decedent, the decedent's spouse or the decedent's  
4 parent, or a spouse of such lineal descendant. For  
5 purposes of this subsection, the term 'qualified real  
6 property interest' shall not include a certified his-  
7 toric structure (as defined in section  
8 170(h)(4)(A)(iv)). For purposes of this subsection,  
9 the term 'member of the decedent's family' shall  
10 have the same meaning as the term 'member of the  
11 family' in section 2032A.

12 “(2) PAYMENT OF TAX UPON CERTAIN DISPOS-  
13 TION OF LAND SUBJECT TO RETAINED DEVELOP-  
14 MENT RIGHT.—The tax attributable to the amount  
15 included in the gross estate relating to development  
16 rights retained by the donor in the conveyance of a  
17 qualified conservation easement shall be due upon  
18 the disposition (other than by gift or bequest) of  
19 such property.”

20 (b) CARRYOVER BASIS.—Section 1014(a) of the In-  
21 ternal Revenue Code of 1986 (relating to basis of property  
22 acquired from a decedent) is amended by striking the pe-  
23 riod at the end of paragraph (3), inserting “or,” at the  
24 end thereof, and inserting the following new paragraph:

1           “(4) in the case of the applicability of section  
2       2031(c), the basis in the hands of the decedent.”

3       (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to land on which qualified con-  
5 servation easements were granted after December 31,  
6 1992.

7       **SEC. 3. GIFT TAX ON LAND SUBJECT TO A QUALIFIED CON-**  
8                               **SERVATION EASEMENT.**

9       (a) GIFT TAX WITH RESPECT TO LAND SUBJECT TO  
10 A QUALIFIED CONSERVATION EASEMENT.—Section 2503  
11 of the Internal Revenue Code of 1986 (relating to taxable  
12 gifts) is amended by adding at the end thereof the follow-  
13 ing new subsection:

14       “(h) GIFT TAX WITH RESPECT TO LAND SUBJECT  
15 TO A QUALIFIED CONSERVATION EASEMENT.—The trans-  
16 fer by gift of land subject to a qualified conservation ease-  
17 ment (other than development rights retained by the donor  
18 of such easement) shall not be treated as a transfer of  
19 property by gift for purposes of this chapter. For purposes  
20 of this subsection, the term ‘land subject to a qualified  
21 conservation easement’ and ‘qualified real property inter-  
22 est’ shall have the same meaning as in section 2031(c)  
23 and the term ‘member of the decedent’s family’ shall have  
24 the same meaning as the term ‘member of the family’ in  
25 section 2032A.”

1 (b) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to land on which qualified con-  
 3 servation easements were granted after December 31,  
 4 1992.

5 **SEC. 4. TEMPORARY DEFERRAL OF SCHEDULED REDUC-**  
 6 **TION IN CERTAIN ESTATE TAX RATES.**

7 (a) IN GENERAL.—Paragraph (2) of section 2001(c)  
 8 of the Internal Revenue Code of 1986 (relating to phase-  
 9 in of 50 percent maximum rate) is amended by adding  
 10 at the end thereof the following new subparagraph:

11 “(E) AFTER 1992 AND BEFORE 1998.—In  
 12 the case of decedents dying, and gifts made  
 13 after 1992 and before 1998, the substitution  
 14 under this paragraph shall be as follows:

<b>“If the amount with respect to which the tentative tax to be computed is:</b>	<b>The tentative tax is:</b>
Over \$2,500,000 .....	\$1,025,800, plus 53 percent of the excess over \$2,500,000.”

15 (b) TECHNICAL AMENDMENT.—Subparagraph (A) of  
 16 section 2001(c)(2) of such Code is amended by striking  
 17 “1993” and inserting “1998”.

18 (c) EFFECTIVE DATE.—The amendments made by  
 19 this section shall apply in the case of decedents dying, and  
 20 gifts made, after December 31, 1992.

1 **SEC. 5. EXCLUSION OF GAIN FROM SALE OF CERTAIN**  
2 **FARMLAND.**

3 (a) GENERAL RULE.—Part III of subchapter B of  
4 chapter 1 of the Internal Revenue Code of 1986 (relating  
5 to items specifically excluded from gross income) is  
6 amended by redesignating section 137 as section 138 and  
7 by inserting after section 136 the following new section:

8 **“SEC. 137. SALES AND EXCHANGES OF FARMLAND THE USE**  
9 **OF WHICH IS RESTRICTED TO FARMING.**

10 “(a) GENERAL RULE.—In the case of an operator of  
11 farmland, gross income does not include gain from the sale  
12 or exchange of eligible farmland if there is in effect on  
13 the date of such sale or exchange a qualified covenant  
14 which does not permit any use of such farmland for any  
15 purpose other than use as farmland.

16 “(b) DEFINITIONS.—For purposes of this section—

17 “(1) ELIGIBLE FARMLAND.—

18 “(A) IN GENERAL.—The term ‘eligible  
19 farmland’ means any farmland with respect to  
20 which the land use restrictions imposed by the  
21 State, and the land use restrictions imposed by  
22 any political subdivision of such State, in which  
23 such farmland is located provide that such  
24 farmland may be used only as farmland.

25 “(B) FARMLAND TO WHICH NO LAND USE  
26 RESTRICTION APPLIES TREATED AS ELIGIBLE

1 FARMLAND.—In the case of any farmland with  
2 respect to which no land use restriction imposed  
3 by a State or political subdivision applies, such  
4 farmland shall be treated as eligible farmland.

5 “(C) DATE FOR DETERMINING WHETHER  
6 FARMLAND IS ELIGIBLE FARMLAND.—The de-  
7 termination of whether farmland is eligible  
8 farmland shall be made on the date the quali-  
9 fied covenant with respect to such farmland is  
10 entered into.

11 “(2) FARMLAND.—The term ‘farmland’ means  
12 any real property—

13 “(A) which is located in the United States,  
14 and

15 “(B) which is used as a farm for farming  
16 purposes (within the meaning of section  
17 2032A(e)).

18 “(3) QUALIFIED COVENANT.—The term ‘quali-  
19 fied covenant’ means a covenant—

20 “(A) which may not be revoked,

21 “(B) which, with respect to farmland to  
22 which such covenant applies, is entered into by  
23 all persons having any ownership interest in  
24 such farmland, and

